

**REPORT OF THE AUDIT OF THE
BUTLER COUNTY
SHERIFF**

**For The Year Ended
December 31, 2005**



**CRIT LUALLEN
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EXECUTIVE SUMMARY

AUDIT EXAMINATION OF THE BUTLER COUNTY SHERIFF

**For The Year Ended
December 31, 2005**

The Auditor of Public Accounts has completed the Butler County Sheriff's audit for the year ended December 31, 2005. Based upon the audit work performed, the financial statement presents fairly, in all material respects, the revenues, expenditures, and excess fees in conformity with the regulatory basis of accounting.

Financial Condition:

Excess fees increased by \$5,317 from the prior year, resulting in excess fees of \$9,539 as of December 31, 2005. Revenues decreased by \$12,815 from the prior year and allowable expenditures decreased by \$18,132.

Report Comments:

- The Sheriff Should Determine The Status Of Contract Labor
- The Sheriff Should Comply With Federal And State Wage And Hour Laws
- The Sheriff Should Maintain Complete And Accurate Accounting Records
- The Sheriff Should Invest Monies In Interest-Bearing Bank Accounts
- The Sheriff's Office Lacks Adequate Segregation Of Duties

Deposits:

The Sheriff's deposits were insured and collateralized by bank securities or bonds.

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CRIT LUALLEN
AUDITOR OF PUBLIC ACCOUNTS

The Honorable David Fields, Butler County Judge/Executive
Honorable Kenneth Morris, Butler County Sheriff
Members of the Butler County Fiscal Court

Independent Auditor's Report

We have audited the accompanying statement of revenues, expenditures, and excess fees - regulatory basis of the Sheriff of Butler County, Kentucky, for the year ended December 31, 2005. This financial statement is the responsibility of the Sheriff. Our responsibility is to express an opinion on this financial statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, and the Audit Guide for County Fee Officials issued by the Auditor of Public Accounts, Commonwealth of Kentucky. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 1, the Sheriff's office prepares the financial statement on a regulatory basis of accounting that demonstrates compliance with the laws of Kentucky, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the revenues, expenditures, and excess fees of the Sheriff for the year ended December 31, 2005, in conformity with the regulatory basis of accounting described in Note 1.

In accordance with Government Auditing Standards, we have also issued our report dated November 9, 2006 on our consideration of the Sheriff's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with Government Auditing Standards and should be considered in assessing the results of our audit.



The Honorable David Fields, Butler County Judge/Executive
Honorable Kenneth Morris, Butler County Sheriff
Members of the Butler County Fiscal Court

Based on the results of our audit, we have presented the accompanying comments and recommendations, included herein, which discusses the following report comments:

- The Sheriff Should Determine The Status Of Contract Labor
- The Sheriff Should Comply With Federal And State Wage And Hour Laws
- The Sheriff Should Maintain Complete And Accurate Accounting Records
- The Sheriff Should Invest Monies In Interest-Bearing Bank Accounts
- The Sheriff's Office Lacks Adequate Segregation Of Duties

This report is intended solely for the information and use of the Sheriff and Fiscal Court of Butler County, Kentucky, and the Commonwealth of Kentucky and is not intended to be and should not be used by anyone other than these interested parties.

Respectfully submitted,



Crit Luallen
Auditor of Public Accounts

Audit fieldwork completed -
November 9, 2006

BUTLER COUNTY
KENNETH MORRIS, SHERIFF
STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS

For The Year Ended December 31, 2005

Revenues

State - Kentucky Law Enforcement Foundation Program Fund	\$	9,319
State Fees For Services:		
Finance and Administration Cabinet	\$	17,732
Sheriff Security Service		26,216
		<u>8,484</u>
Circuit Court Clerk:		
Arrest Fees		5,530
Fiscal Court		108,742
County Clerk - Delinquent Taxes		594
Butler County School Board		31,232
Commission On Taxes Collected		95,697
Fees Collected For Services:		
Auto Inspections	4,542	
Serving Papers	17,175	
Carrying Concealed Deadly Weapon Permits	5,310	
Housing Reimbursements	14,530	
Tax Penalty Fees	14,751	56,308
		<u>14,751</u>
Other:		
Miscellaneous		3,612
Interest Earned		47
Borrowed Money:		
State Advancement		35,000
		<u>35,000</u>
Total Revenues		<u>372,297</u>

The accompanying notes are an integral part of this financial statement.

BUTLER COUNTY
 KENNETH MORRIS, SHERIFF
 STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS
 For The Year Ended December 31, 2005
 (Continued)

Expenditures

Operating Expenditures:

Personnel Services-		
Deputies' Salaries	\$ 124,798	
Part-Time Salaries	28,688	
Other Salaries	<u>28,999</u>	\$ 182,485
Employee Benefits-		
Employer's Share Social Security		16,920
Materials and Supplies-		
Office Materials and Supplies	1,452	
Uniforms	<u>2,159</u>	3,611
Auto Expense-		
Gasoline	15,195	
Maintenance and Repairs	<u>7,850</u>	23,045
Other Charges-		
Dues	900	
Postage	3,027	
Telephone	2,257	
Transporting Expenses	10,793	
Training	2,705	
Video, Film, and Developing	492	
Carrying Concealed Deadly Weapon Permits	4,480	
Miscellaneous	<u>6,778</u>	31,432
Debt Service:		
State Advancement		<u>35,000</u>
Total Expenditures		<u>292,493</u>
Net Revenues		79,804
Less: Statutory Maximum		<u>67,071</u>
Excess Fees		12,733
Less: Training Incentive Benefit		<u>3,194</u>
Excess Fees Due County for 2005		9,539
Payment to Fiscal Court - March 13, 2006		<u>9,046</u>
Balance Due Fiscal Court at Completion of Audit*		<u>\$ 493</u>

*Note: The Sheriff presented a check to the County Treasurer for the balance due Fiscal Court on October 26, 2006.

The accompanying notes are an integral part of this financial statement.

BUTLER COUNTY
NOTES TO FINANCIAL STATEMENT

December 31, 2005

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

A fee official uses a fund to report on the results of operations. A fund is a separate accounting entity with a self-balancing set of accounts. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

A fee official uses a fund for fees to account for activities for which the government desires periodic determination of the excess of revenues over expenditures to facilitate management control, accountability, and compliance with laws.

B. Basis of Accounting

KRS 64.820 directs the fiscal court to collect any amount, including excess fees, due from the Sheriff as determined by the audit. KRS 134.310 requires the Sheriff to settle excess fees with the fiscal court at the time he files his final settlement with the fiscal court.

The financial statement has been prepared on a regulatory basis of accounting, which demonstrates compliance with the laws of Kentucky and is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. Under this regulatory basis of accounting revenues and expenditures are generally recognized when cash is received or disbursed with the exception of accrual of the following items (not all-inclusive) at December 31 that may be included in the excess fees calculation:

- Interest receivable
- Collection on accounts due from others for 2005 services
- Reimbursements for 2005 activities
- Tax commissions due from December tax collections
- Payments due other governmental entities for payroll
- Payments due vendors for goods or services provided in 2005

The measurement focus of a fee official is upon excess fees. Remittance of excess fees is due to the County Treasurer in the subsequent year.

C. Cash and Investments

At the direction of the fiscal court, KRS 66.480 authorizes the Sheriff's office to invest in the following, including but not limited to, obligations of the United States and of its agencies and instrumentalities, obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States, obligations of any corporation of the United States government, bonds or certificates of indebtedness of this state, and certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation (FDIC) or which are collateralized, to the extent uninsured, by any obligation permitted by KRS 41.240(4).

BUTLER COUNTY
NOTES TO FINANCIAL STATEMENT
December 31, 2005
(Continued)

Note 2. Employee Retirement System

The county officials and employees have elected to participate in the County Employees Retirement System (CERS), pursuant to KRS 78.530 administered by the Board of Trustees of the Kentucky Retirement Systems. This is a cost-sharing, multiple-employer, defined benefit pension plan that covers all eligible full-time employees and provides for retirement, disability, and death benefits to plan members.

Benefit contributions and provisions are established by statute. Nonhazardous covered employees are required to contribute 5.0 percent of their salary to the plan. The county's contribution rate for nonhazardous employees was 8.48 percent for the first six months and 10.98 percent for the last six months of the year.

Benefits fully vest on reaching five years of service for nonhazardous employees. Aspects of benefits for nonhazardous employees include retirement after 27 years of service or age 65.

Historical trend information pertaining to CERS' progress in accumulating sufficient assets to pay benefits when due is presented in the Kentucky Retirement Systems' annual financial report which is a matter of public record. This report may be obtained by writing the Kentucky Retirement Systems, 1260 Louisville Road, Frankfort, Kentucky 40601-6124, or by telephone at (502) 564-4646.

Note 3. Deposits

The Sheriff maintained deposits of public funds with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC) as required by KRS 66.480(1)(d). According to KRS 41.240(4), the depository institution should pledge or provide sufficient collateral which, together with FDIC insurance, equals or exceeds the amount of public funds on deposit at all times. In order to be valid against the FDIC in the event of failure or insolvency of the depository institution, this pledge or provision of collateral should be evidenced by an agreement between the Sheriff and the depository institution, signed by both parties, that is (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution.

Custodial Credit Risk - Deposits

Custodial credit risk is the risk that in the event of a depository institution failure, the Sheriff's deposits may not be returned. The Sheriff does not have a deposit policy for custodial credit risk but rather follows the requirements of KRS 41.240(4). As of December 31, 2005, all deposits were covered by FDIC insurance or a properly executed collateral security agreement.

BUTLER COUNTY
NOTES TO FINANCIAL STATEMENT
December 31, 2005
(Continued)

Note 4. Drug Account

During 2005, under the terms stipulated by the United States Department of Justice and the Commonwealth of Kentucky, the Sheriff's office received proceeds from the confiscation, surrender, or sale of real and personal property involved in drug related convictions. These funds are to be used for law enforcement activities. As of January 1, 2005, this account had a balance of \$2,054. During 2005, funds of \$44,518 were received and \$43,429 were expended, leaving a balance of \$3,143 as of December 31, 2005.

Note 5. DARE Accounts

During 2005, the Sheriff's office maintained two bank accounts to be used for drug education. The beginning balance of the DARE account was \$457. Total receipts were \$2,000 and total disbursements were \$2,357, leaving a December 31, 2005 balance of \$100.

The beginning balance of the Drug Prevention account was \$1,347. Total receipts were \$1 and total disbursements were \$590, leaving a December 31, 2005 balance of \$758.

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COMMENTS AND RECOMMENDATIONS

BUTLER COUNTY
KENNETH MORRIS, SHERIFF
COMMENTS AND RECOMMENDATIONS

For The Year Ended December 31, 2005

STATE LAWS AND REGULATIONS:

The Sheriff Should Determine The Status Of Contract Labor

The Sheriff paid a deputy to perform security at the Morgantown Housing Authority. This deputy is not a sworn deputy and does not carry firearms or have arrest powers. He completes time sheets, is paid at a set rate per hour, works more than 100 hours per month, and does not participate in county employee retirement system. He is hired indefinitely with no specific dates of employment and there is not a written agreement between the Sheriff's office and this deputy.

The Auditor of Public Accounts has researched federal and state law and based on that review has determined that Sheriffs' Deputies performing statutory duties in their work environment are employees, not contract labor. Although there may be financial and budgetary savings associated with contract labor status that is not a factor in properly classifying this employee.

We recommend that either the Sheriff treat this deputy as an employee or complete a Form SS-8 to be submitted to the Internal Revenue Service (IRS). The IRS will evaluate data from the Sheriff and the Deputy and make a final determination.

Sheriff's Response:

None

The Sheriff Should Comply With Federal And State Wage And Hour Laws

The Sheriff has a policy whereby compensation for transporting prisoners and marijuana eradication is paid to each deputy at the rate reimbursed by the State. Deputies are only allowed to transport prisoners and participate in marijuana eradication on their day off. The amount of time worked while deputies are transporting prisoners is not considered when calculating the total hours worked per week when considering overtime pay. In addition, no retirement has been paid on these earnings.

The Fair Labor Standards Act (FLSA) requires that all covered, nonexempt employees be paid overtime pay at a rate of not less than one and one-half times an employee's regular rate of pay after 40 hours of work in a workweek. In addition, KRS 337.285 states that no employer shall employ any of his employees for a week longer than forty (40) hours in a work week at a rate not less than one and one-half (1-1/2) times the hourly wage rate at which he is employed. As opposed to paying deputies time and a half, the Sheriff has a policy whereby compensation for transporting prisoners and marijuana eradication is paid to each deputy at the rate reimbursed by the State. This payment replaces overtime that may have been earned.

It appears that this policy is contrary to state wage and hour laws and deputies may be owed additional pay. When two different rates are paid during the same workweek, the half-rate is calculated using an average hourly rate for that week.

BUTLER COUNTY
KENNETH MORRIS, SHERIFF
COMMENTS AND RECOMMENDATIONS
For The Year Ended December 31, 2005
(Continued)

STATE LAWS AND REGULATIONS: (Continued)

The Sheriff Should Comply With Federal And State Wage And Hour Laws (Continued)

Furthermore, it appears that KRS 337.285 (4) requires a cash payment for overtime unless upon the written request by an employee, without pressure or suggestion by the employer, the employee requests to be granted compensatory time in lieu of overtime pay, at the rate of not less than one and one-half (1-1/2) hours for each hour the county employee is authorized to work in excess of forty (40) hours in a work week.

We recommend the Sheriff review his personnel policy related to transporting prisoners and marijuana eradication and payment of overtime to assure compliance with KRS 337.285. In addition, we will refer this matter to the U. S. Department of Labor, Kentucky Department of Wage and Hour, and the Kentucky Retirement Systems for review.

Sheriff's Response:

None.

The Sheriff Should Maintain Complete and Accurate Accounting Records

KRS 68.210 requires the Sheriff to maintain minimum accounting records. Auditor noted several deficiencies in the Sheriff's accounting records, which could be considered, in the aggregate, as a material weakness.

- "Daily" bank deposits were made an average three to six times a month.
- Receipts and disbursements ledgers were not completed and up to date.
- Ledgers were not properly reconciled to the official bank account on a monthly basis.
- Quarterly Report was incomplete (does not include accounts receivable or outstanding liabilities).
- The ledgers were not reconciled to the Quarterly Report.

We recommend the Sheriff establish and maintain proper minimum accounting records as required by KRS 68.210 by implementing the following procedures:

- Bank deposit should be made daily or when receipts exceed \$200 or more.
- Ledgers should be maintained/updated on all accounts until such accounts are closed out.
- Bookkeeper should properly reconcile ledgers to the official bank account on a monthly basis.
- Quarterly Report should be complete.
- Receipts and expenditures ledgers should be reconciled to the Quarterly Report.

Sheriff's Response:

None.

BUTLER COUNTY
KENNETH MORRIS, SHERIFF
COMMENTS AND RECOMMENDATIONS
For The Year Ended December 31, 2005
(Continued)

STATE LAWS AND REGULATIONS: (Continued)

The Sheriff Should Invest Monies In Interest-Bearing Bank Accounts

The Sheriff deposited funds into a non-interest-bearing bank account. KRS 66.480 states that the Sheriff may, and at the direction of the fiscal court shall, invest and reinvest money subject to their control and jurisdiction. Prudent financial management dictates that the Sheriff take advantage of earnings potential by depositing funds into interest-bearing bank accounts. We recommend the Sheriff invest all funds into interest-bearing bank accounts.

Sheriff's Response:

None.

INTERNAL CONTROL - REPORTABLE CONDITION AND MATERIAL WEAKNESS:

The Sheriff's Office Lacks Adequate Segregation Of Duties

The Sheriff's office has a lack of segregation of duties. Due to the entity's diversity of official operations, small size, and budget restrictions the official has limited options for establishing an adequate segregation of duties. We recommend that the following compensating controls be implemented to offset this internal control weakness:

- The Sheriff should periodically compare a daily bank deposit to the daily checkout sheet and then compare the daily checkout sheet to the receipts ledger. Any differences should be reconciled. He could document this by initialing the bank deposit, daily checkout sheet, and receipts ledger.
- The Sheriff should compare the quarterly financial report to receipts and disbursements ledgers for accuracy. The Sheriff should also compare the salaries listed on the quarterly report to the individual earnings records. Any differences should be reconciled. The Sheriff could document this by initialing the quarterly financial report.
- The Sheriff should periodically compare invoices to payments. The Sheriff could document this by initialing the invoices.
- The Sheriff should periodically compare the bank reconciliation to the balance in the checkbook. Any differences should be reconciled. The Sheriff could document this by initialing the bank reconciliation and the balance in the checkbook.

Sheriff's Response:

None.

PRIOR YEAR:

The prior year finding, "The Sheriff's Office Lacks Adequate Segregation Of Duties," was not corrected and is discussed above.

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REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND
ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL
STATEMENT PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS



CRIT LUALLEN
AUDITOR OF PUBLIC ACCOUNTS

The Honorable David Fields, Butler County Judge/Executive
Honorable Kenneth Morris, Butler County Sheriff
Members of the Butler County Fiscal Court

Report On Internal Control Over Financial Reporting And
On Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards

We have audited the statement of revenues, expenditures, and excess fees - regulatory basis of the Butler County Sheriff for the year ended December 31, 2005, and have issued our report thereon dated November 9, 2006. The Sheriff's financial statement is prepared in accordance with a basis of accounting other than generally accepted accounting principles. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Butler County Sheriff's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statement and not to provide an opinion on the internal control over financial reporting. However, we noted a certain matter involving the internal control over financial reporting and its operation that we consider to be a reportable condition. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting that, in our judgment, could adversely affect the entity's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statement. The reportable condition is described in the accompanying comments and recommendations.

- The Sheriff's Office Lacks Adequate Segregation Of Duties

A material weakness is a reportable condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statement being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses. However, we consider the reportable condition described above to be a material weakness.



Report On Internal Control Over Financial Reporting And
On Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards
(Continued)

Compliance And Other Matters

As part of obtaining reasonable assurance about whether the Butler County Sheriff's financial statement for the year ended December 31, 2005, is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance or other matters that are required to be reported under Government Auditing Standards and which are described in the accompanying comments and recommendations.

- The Sheriff Should Determine The Status Of Contract Labor
- The Sheriff Should Comply With Federal And State Wage And Hour Laws
- The Sheriff Should Maintain Complete And Accurate Accounting Records
- The Sheriff Should Invest Monies In Interest-Bearing Bank Accounts

This report is intended solely for the information and use of management and the Kentucky Governor's Office for Local Development and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,



Crit Luallen
Auditor of Public Accounts

Audit fieldwork completed -
November 9, 2006

